

07 CV 5963

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MTS LOGISTICS INC. and MTS ULUSA
ARARASI TASIMACILIK VE TIC. A.S.,

Plaintiffs,

-against-

EUROTEX INC, a/k/a EUROTEX HOME
FASHIONS, a/k/a EBRAHAM EUROTEX
INC., and ONDERLER DIS TICARET LTD
STI,

Defendants.

07 CV
JUN 22 2007



COMPLAINT

Plaintiffs, MTS LOGISTICS INC. and MTS ULUSLARARASI TASIMACILIK VE TIC. A.S. ("MTS"), by their attorneys, MAHONEY & KEANE, LLP, as and for a Complaint against Defendants, EUROTEX INC, a/k/a EUROTEX HOME FASHIONS, a/k/a EBRAHAM EUROTEX INC. ("EUROTEX") and ONDERLER DIS TICARET LTD STI ("ONDERLER"), allege, upon information and belief, as follows:

1. This is a case of admiralty and maritime jurisdiction within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Jurisdiction is based upon 28 U.S.C. § 1333, as well as the Court's pendent, supplementary and ancillary jurisdiction.

2. Plaintiff is a legal entity duly organized and existing pursuant to the laws of a foreign country and the issuer of bill of lading numbered MER00809 for the ocean carriage of cargo from Mersin, Turkey to New York, U.S.A., onboard the M/V ANTARES I.

3. True copies of the bill of lading and freight invoice are herewith attached as Exhibit A.

4. Defendant EUROTEX is a business entity organized and existing pursuant to the laws of the United States with offices and a place of business located at 459 COURTLAND

STREET, BELLEVILLE, NJ 07109, and is the consignee on the aforesaid bills of lading obligated to pay the freight on the aforesaid shipments.

5. Defendant ONDERLER is a business entity organized and existing pursuant to the laws of a foreign country with offices and a place of business located at KAMIL SERBETCI BULV. NO 13 ORG, SAN BDLG, BASPINAR/GAZIANTEP, TURKEY, and is the shipper on the aforesaid bills of lading obligated to pay the freight on the aforesaid shipments.

6. Venue is properly placed in this District pursuant to the Law and Jurisdiction clause of the aforesaid bill of lading contract.

7. Plaintiffs sue on their own behalf and as agents and trustees on behalf of any other party who may now have or hereinafter acquire an interest in this action.

8. All conditions precedent required of Plaintiffs in the aforesaid shipments have been performed.

AS AND FOR A FIRST CAUSE OF ACTION

9. At all times relevant herein, Defendants contracted with Plaintiffs for Plaintiffs to provide for the aforesaid ocean carriage in consideration of freight payments by Defendants to Plaintiffs.

10. Plaintiffs duly performed all duties and obligations required to be performed by Plaintiffs in connection with Defendants' shipments.

11. Defendants have failed to make payment as required by the contract on outstanding invoices for ocean freight.

12. The invoices annexed as exhibits hereto have been presented to Defendants, without protest.

13. No payment has been received although duly demanded.

14. Defendants breached their contracts with Plaintiffs.

15. By reason of the foregoing, Plaintiffs have sustained damages in the amount of \$4,290.00, together with interest, costs, fees, and expenses.

AS AND FOR A SECOND CAUSE OF ACTION

16. Plaintiffs repeat and reiterate each and every allegation contained in paragraphs "1" through "15" as if specifically set forth herein at length.
17. Defendants have an account stated with the Plaintiffs.
18. By reason of the foregoing, Plaintiffs have sustained damages in the amount of \$4,290.00, together with interest, costs, fees, and expenses.

AS AND FOR A THIRD CAUSE OF ACTION

19. Plaintiffs repeat and reiterate each and every allegation contained in paragraphs "1" through "18" as if specifically set forth herein at length.

20. Plaintiffs are due from Defendants the quantum meruit of Plaintiffs' services.

WHEREFORE, Plaintiffs pray that judgment be entered in an amount exceeding **four thousand two hundred and ninety dollars** (\$4,290.00), plus interest, fees, including attorneys' fees, costs, and disbursements; that Court process be issued against the Defendants; and that Plaintiffs be granted such other and further relief as the Court may deem just and proper.

Dated: New York, New York

June 22, 2007

MAHONEY & KEANE, LLP
Attorneys for Plaintiffs
MTS LOGISTICS INC and MTS ULUSA
ARARASI TASIMACILIK VE TIC. A.S.

By:

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SERVICE LIST

EUROTEX INC, a/k/a EUROTEX HOME
FASHIONS, a/k/a EBRAHAM EUROTEX
INC.
459 Courtland Street
Belleville, NJ 07109

ONDERLER DIS TICARET LTD STI
Kamil Serbetci Bulv. No 13 Org, San Bdlg,
Baspinar/Gaziantep
TURKEY